THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16946 OF 1997

DATED 12.07.2006

BETWEEN

Sri Ch.Ramakoteswara Rao

… Petitioner

and

The Deputy Commissioner of Endowments, Hyderabad and another.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16946 OF 1997

ORDER:

The petitioner is clerk in the second respondent - temple, namely, Sri Someswara Swamy Temple, Sujatha Nagar village and Mandal, Khammam District. By impugned notice, dated 14.07.1997, the Executive Officer of the Temple, in purported obedience to the terms issued by the first respondent, called upon the petitioner to show cause as to why his services should not be terminated within one month from the date of receipt of the said show cause notice. The impugned order is assailed on the ground that the same is violative of principles of natural justice and the procedure prescribed under law.

Section 37(1) of the Act empowers the Trustee of an institution to suspend, remove or dismissal any office-holder or servant attached to the institution by recording reasons and after following prescribed procedure. The term 'prescribed' is defined in Section 2(19) of the Act as to mean prescribed by Rules made by the Government. In exercise of powers under Section 153 read with Sections 37 and 38 of the Act, the Governor of Andhra Pradesh promulgated A.P.Charitable and Hindu Religious Institutions and Endowments Office Holders and Servants Punishment Rules, 1987 (hereafter called, the Rules). Rule 2 stipulates that the Trustee or Executive Officer is competent authority to impose the punishments enumerated in Rule 3 of the Rules, namely, censure, withholding of increments or promotion, reduction to a rank and recovery from pay. Rule 4 of the Rules reads as under.

4. No order imposing, on an office-holder or servant

attached to a Charitable or Religious Institution or Endowment, any of the penalties specified in Section 37 and Rule 3 above other than an order based on facts which have led to the conviction of the office-holder or servant by a Criminal Court shall be passed except after following the procedure laid down in Rule 19 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1963:

Provided that this rule shall not apply where the authority competent to impose penalty is satisfied that, for reasons to be recorded in writing, it is not reasonably practicable to hold inquiry or give opportunity as required under foresaid Rule 19.

A plain reading of the above Rule would show that the procedure contemplated in a disciplinary matter under A.P.Civil Services (Classification, Control and Appeal) Rules, 1963 (since repealed in 1991) is made applicable to disciplinary proceedings in relation to the office-holders and servants of the temples and other institutions. Without following this procedure, the second respondent issued a show cause notice straightaway, which cannot be sustained. The same is accordingly set aside. It shall, however, be open to the respondents to proceed in accordance with Section 37 of the Act and the Rules against the petitioner.

The writ petition, with the above observations, is allowed. No costs.

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(V.V.S.RAO,J)

12.07.2006
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